

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

ANDREA ROSE OWENS,

Plaintiff,

Case. No. 18-12704

v.

Honorable Thomas L. Ludington  
Magistrate Judge David R. Grand

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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**ORDER ADOPTING REPORT & RECOMMENDATION, GRANTING IN PART  
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT, DENYING DEFENDANT'S  
MOTION FOR SUMMARY JUDGMENT, AND REMANDING THE CASE FOR  
FURTHER PROCEEDINGS**

Owens was twenty-nine-years old at the time of her alleged onset date of May 1, 2008 (Tr. 154), and at 5'3" tall weighed approximately 150 pounds during the relevant time-period. (Tr. 256). She completed high school but had no further education. (Tr. 154). She has no prior work history except as a child care provider out of her own home. (Tr. 39). Despite identifying May 1, 2008 as her alleged onset date, Owens indicated that she "stopped working" on November 1, 2012, though this relates to a cashier job she held for only a few months. (Tr. 174, 190). She now alleges disability primarily because of lumbar degenerative disc disease status post lumbar discectomy; migraines; and depression. (Tr. 17). After the Social Security Administration denied Owens's application for SSI at the initial level (Tr. 7) and on reconsideration (Tr. 78-94), she timely requested an administrative hearing, which was held on November 28, 2017, before ALJ Therese Tobin (Tr. 35-54). Owens, who was represented by attorney Jason Mohler, testified at the hearing, as did vocational expert Diane Regan. (Id.). On January 31, 2018, the ALJ issued an unfavorable

written decision. (Tr. 12-26). On June 29, 2018, the Appeals Council denied review. (Tr. 1-6). Owens timely filed for judicial review of the final decision on August 29, 2018. (Doc. #1).

The matter was referred to Magistrate Judge David Grand. ECF No. 3. The parties filed cross motions for summary judgment. ECF Nos. 15, 16. On October 7, 2019, Judge Grand issued a report, recommending that Plaintiff's motion for summary judgment be granted in part regarding remand and denied in part to the extent it seeks an award of benefits, that Defendant's motion for summary judgment be denied, and remanding the case under "sentence four" of 42 U.S.C. § 405(g). ECF No. 18.

Although the magistrate judge's report states that the parties to this action could object to and seek review of the recommendation within fourteen days of service of the report, neither party timely filed any objections. The election not to file objections to the magistrate judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). The failure to file objections to the report and recommendation waives any further right to appeal. *Id.*

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation, ECF No. 18, is **ADOPTED**.

It is further **ORDERED** that Plaintiff's Motion for Summary Judgment, ECF No. 15, is **GRANTED IN PART** to the extent that it seeks remand **AND DENIED IN PART** to the extent it seeks an award of benefits.

It is further **ORDERED** that Defendant's Motion for Summary Judgment, ECF No. 16, is **DENIED**.

It is further **ORDERED** that the case is **REMANDED** for further analysis by the ALJ for further proceedings.

s/Thomas L. Ludington  
THOMAS L. LUDINGTON  
United States District Judge

Dated: October 29, 2019